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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,088	11/14/2001	Jeffrey L. Trudeau	004608.00003	8571
22908 7590 05/25/2007 BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606			EXAMINER PHILOGENE, PEDRO	
			ART UNIT 3733	PAPER NUMBER
			MAIL DATE 05/25/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

### Application No.

09/994,088

### Applicant(s)

TRUDEAU ET AL.

### Examiner

Pedro Philogene

### Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9,11-19,22,23,28-44,47 and 54-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9,11-19,22,23,28-44,47,54-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-9, 11-19, 22, 23, 28-44, 47, 54-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Deuer (5,855,251).

With respect to the above claims Deuer discloses a clamp for clamping an elongate member (24) comprising in combination a housing (12) for receiving the elongate member (24) a saddle member (13) and platen, as best seen in FIG.17, movably mounted relative to the housing, a lever (60) cooperating with the housing for moving the saddle member or platen relative to the housing, wherein the saddle member moves generally transverse to the elongated member and an engaging surface (50,52) for engaging the elongated member. The lever cooperates with a housing cam surface; as best seen in FIGS.7,17; on the housing, the housing having at least two discrete surface areas; as best seen in FIG.7. The engaging surface is integrated with the saddle member and the housing for engaging the elongated member; as best seen in Figs.7,17, the engaging surface is formed to engage at least a portion of a periphery of the elongate member, wherein at least a portion of the lengthwise cross-section of the engaging surface is non-linear; as best seen in Fig.9. The lever is pivotally attached

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to the saddle member in a slot (100,102), the slot being formed in the saddle member and having at least two distinct positions allowing the lever to pivot at least two positions (lock and unlock). The lever cooperating with the platen for moving the platen relative to the housing, wherein the platen is moved generally transverse to the elongated member; as best seen in FIGS17, 18, The lever cooperating with the platen for moving the platen relative to the housing, wherein the lever includes a lever cam surface having at least one facet cooperating with the platen, best seen in FIG.17, and as set forth in column 6, lines 11-67; wherein at least one spring (70) suspends the platen when the lever is in an open , unengaged position; means (104') for moving the saddle member and the platen relative to the housing.

With respect to the method claims, the method steps, as set forth, would have been inherently carried out in the operation of the device, as set forth above.

### ***Response to Amendment***

Applicant's arguments with respect to claims 1-3, 5-9, 11-19, 22, 23, 28-44, 47, 54-57, have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

A shortened statutory period for reply to this action is set to expire THREE MONTHS from the mailing date of this action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (571) 272-4716. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272 - 4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pedro Philogene  
May 22, 2007

  
PEDRO PHILOGENE  
PRIMARY EXAMINER